



History and Status of Wolf Hunting in Wisconsin

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Wolves had once disappeared from Wisconsin, but the Department of Natural Resources (DNR) recently estimated a gray wolf population of over 1,000 in the state.² This issue brief summarizes the history and current status of Wisconsin's wolf harvest season, including state law, federal delisting actions, and court decisions.

FEDERAL DELISTING

Under the federal Endangered Species Act (ESA), the U.S. Fish and Wildlife Service (USFWS) lists animal and plant species as either endangered or threatened, based on specified factors relating to the risk of extinction.³ USFWS must also periodically review the list and remove species that no longer satisfy the listing criteria. [16 U.S.C. s. 1533 (c) (2).] A person may not “take”⁴ a listed plant or animal without a federal permit, meaning that a state may not allow hunting or trapping of a federally listed species. [16 U.S.C. s. 1538 (a) (1).]

As gray wolf numbers improved in Wisconsin and other states, USFWS attempted to delist the gray wolf in multiple rule actions, beginning in 2007. After a [federal delisting action](#) took effect in January 2012, the Legislature enacted [2011 Wisconsin Act 169](#), described below. However, in 2014, a federal court invalidated that federal delisting decision and directed that the gray wolf be relisted as a federally endangered species in the western Great Lakes region, including Wisconsin.⁵

In a [final rule](#) that took effect on January 4, 2021, USFWS again delisted the gray wolf species, this time throughout the lower 48 states.⁶ [85 Fed. Reg. 69778.] A [challenge](#) to the new rule is pending in the U.S. District Court for the Northern District of California. Petitioners in the case, *Defenders of Wildlife v. USFWS*, argue that the rule fails to satisfy the ESA's delisting criteria for the still recovering gray wolf population, particularly in the Midwest. In a [filing](#) in the case, USFWS characterized the gray wolf population as being “robust” and “stable” in the Great Lakes region.

WISCONSIN LAW

Current law, created by 2011 Wisconsin Act 169, requires DNR to allow wolf hunting and trapping in the event of federal delisting. Specifically, DNR must establish an annual wolf harvest season that begins on the first Saturday in November and ends on the last day of February. In doing so, DNR may limit the number of wolf hunters and trappers and the number of wolves that may be taken by issuing wolf harvesting licenses. In addition, DNR may close a wolf harvesting zone to hunting and trapping wolves if it determines that such closure is necessary to effectively manage the state's wolf population. [s. 29.185 (1m) and (5) (a) and (c), Stats.]

DNR must divide the state into wolf harvesting zones and identify the zones in a wolf management plan. DNR must also issue a license and wolf carcass tag to each person who applies, subject to certain conditions, or, if more people apply than there are licenses, distribute 50 percent of the licenses through a lottery system and 50 percent of the licenses through a cumulative preference system. [s. 29.185 (2) (a), (3) (bn), and (5) (b), Stats.]

Act 169 directed DNR to promulgate administrative rules, including an initial emergency rule, to implement the act. Act 169 authorized the emergency rule to remain in effect until a permanent rule

takes effect. The Natural Resources Board (NRB) subsequently promulgated an [emergency rule](#), which took effect on August 18, 2012. Among other provisions, the emergency rule establishes six zones, specifies approved methods for hunting and trapping wolves, and sets forth criteria governing DNR’s establishment of an annual harvest quota. Perhaps in part because wolves were relisted from 2014 to 2021, NRB has not yet promulgated a permanent rule to implement the act.⁷

WOLF HARVEST SEASONS

In the years immediately following the enactment of 2011 Wisconsin Act 169, but before the federal delisting was invalidated by a judicial decision, DNR held three wolf harvest seasons. Hunters and trappers harvested an authorized 117, 257, and 154 wolves, respectively, during the [2012](#), [2013](#), and [2014](#) seasons.

After the more recent federal delisting action took effect in January 2021, DNR [initially announced](#) that it would first hold a wolf harvest season in fall 2021, after tribal consultation and public input to develop a new wolf management plan. However, Jefferson County Circuit Court issued a writ of mandamus ordering DNR to hold a wolf harvest season in the winter of 2021. [[Hunter Nation v. DNR, 2021CV000031](#).] Following the court’s order, DNR announced a winter 2021 harvest season from February 22-28, 2021. The NRB approved a quota of 200 wolves for that season, comprised of 81 wolves allocated to tribes pursuant to treaty rights⁸ and 119 wolves for licensed hunters and trappers. However, 218 wolves were harvested before DNR closed the season on February 24, 2021.⁹

On October 4, 2021, DNR [announced](#) a quota of 130 wolves (56 allocated for tribal ceded territory rights and 74 for licensed hunters and trappers) for the fall 2021 wolf harvest season, which is scheduled to begin on November 6, 2021.¹⁰ Two cases – one in federal court and one in state court – have challenged the fall harvest season.¹¹ On October 22, 2021, the Dane County Circuit Court issued a preliminary injunction in the state case. The temporary injunction prohibits the start of the fall season, but it may be appealed.

¹ The gray wolf (*canis lupus*), also sometimes called the “timber wolf,” is the species of wolf found in Wisconsin.

² See DNR, *Wisconsin Gray Wolf Monitoring Report 15 April 2019 Through 14 April 2020*, available at <https://dnr.wisconsin.gov/sites/default/files/topic/WildlifeHabitat/wolfreport2020.pdf>.

³ Wisconsin law similarly requires DNR to establish a list of species that are threatened and endangered in this state. [s. 29.604, Stats.; ch. NR 27, Wis. Adm. Code.] DNR [removed](#) the gray wolf from the state threatened and endangered species list in 2004. DNR continues to monitor the gray wolf’s status as a species of “special concern.” Currently, the gray wolf falls within the category of “special concern” that is “apparently secure in Wisconsin due to an extensive range and/or many populations or occurrences, but with possible cause for some concern as a result of local recent declines, threats, or other factors.”

⁴ In this context, “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. [16 U.S.C. s. 1532 (19).]

⁵ *Humane Society v. Jewell*, 76 F. Supp. 3d 69 (D.D.C. 2014) (aff’d by *Humane Society v. Zinke*, 865 F.3d 585 (D.C. Cir. 2017)).

⁶ The new rule attempted to rectify legal concerns raised in past court cases by no longer dividing the gray wolf species into distinct population segments. Previous federal actions had divided gray wolves in the western Great Lakes region and wolves found in the western United States. Although the court decisions differ as to the reasoning, the decisions agreed that USFWS had improperly utilized distinct population segments under the ESA.

⁷ However, DNR has an [active scope statement](#) for rulemaking to create permanent wolf harvest regulations.

⁸ In treaties signed in the mid-Nineteenth Century, Ojibwe people reserved specified lands but ceded other land to the federal government. In Wisconsin, this “ceded territory” covers approximately 22,400 square miles in the northern third of the state. In the treaties, Ojibwe people reserved the right to hunt, fish, and gather within the ceded territory. Over time, various federal judicial rulings and stipulations between the state and tribes have clarified the parameters of those treaty rights.

⁹ A report with additional detail regarding the February 2021 season is available [here](#).

¹⁰ That number differs from a wolf harvest quota of 300 wolves that was approved by the NRB on August 11, 2021. The discrepancy has highlighted existing legal uncertainty regarding whether DNR or the NRB has ultimate authority to set the annual wolf harvest quota. Questions regarding the NRB role were raised by plaintiffs in the case filed in Dane County Circuit Court, discussed below.

¹¹ The federal case, [Red Cliff Band v. Cole](#), was filed in the U.S. District Court for the Western District of Wisconsin by several indigenous tribes. The federal case argues, in part, that the season violates the tribes’ treaty rights. The state case, [Great Lakes Wildlife Alliance v. NRB](#), was filed in the Dane County Circuit Court. The state case argues, in part, that the emergency rule implementing the wolf hunt violates the [Separation of Powers Doctrine](#) and the [Public Trust Doctrine](#).